

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

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AUTHORITY: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

NOTE: Certain provisions of part 4044 have been superseded by legislative changes. For example, there are references to provisions formerly codified in 29 CFR part 2617, subpart C (and to the Notice of Sufficiency provided for thereunder) that no longer exist because of changes in the PBGC's plan termination regulations in response to the Single-Employer Pension Plan Amendments Act of 1986 and the Pension Protection Act of 1987. The PBGC intends to amend part 4044 at a later date to conform it to current statutory provisions.

SOURCE: 61 FR 34059, July 1, 1996, unless otherwise noted.

Subpart A—Allocation of Assets

GENERAL PROVISIONS

§ 4044.1 Purpose and scope.

This part implements section 4044 of ERISA, which contains rules for allocating a plan's assets when the plan terminates. These rules have been in effect since September 2, 1974, the date of enactment of ERISA. This part applies to any single-employer plan covered by title IV of ERISA that submits a notice of intent to terminate, or for which PBGC commences an action to terminate the plan under section 4042 of ERISA.

(a) *Subpart A.* Sections 4044.1 through 4044.4 set forth general rules for applying §§ 4044.10 through 4044.17. Sections 4044.10 through 4044.17 interpret the rules and describe procedures for allocating plan assets to priority categories 1 through 6.

(b) *Subpart B.* The purpose of subpart B is to establish the method of determining the value of benefits and assets under terminating single-employer pension plans covered by title IV of ERISA. This valuation is needed for both plans trustee under title IV and plans which are not trustee. For the former, the valuation is needed to allocate plan assets in accordance with subpart A of this part and to determine the amount of any plan asset insufficiency. For the latter, the valuation is needed to allocate assets in accordance with subpart A and to distribute the assets in accordance with subpart B of part 4041 of this chapter.

(1) Section 4044.41 sets forth the general provisions of subpart B and applies to all terminating single-employer

plans. Sections 4044.51 through 4044.57 prescribe the benefit valuation rules for plans that receive or that expect to receive a Notice of Inability to Determine Sufficiency from PBGC and are placed into trusteeship by PBGC, including (in §§ 4044.55 through 4044.57) the rules and procedures a plan administrator shall follow to determine the expected retirement age (XRA) for a plan participant entitled to early retirement benefits for whom the annuity starting date is not known as of the valuation date. This applies to all trustee plans which have such early retirement benefits. The plan administrator shall determine an XRA under § 4044.55, § 4044.56 or § 4044.57, as appropriate, for each active participant or participant with a deferred vested benefit who is entitled to an early retirement benefit and who as of the valuation date has not selected an annuity starting date. (See Note at beginning of part 4044.)

(2) Sections 4044.71 through 4044.75 prescribe the benefit valuation rules for calculating the value of a benefit to be paid a participant or beneficiary under a terminating pension plan that is distributing assets where the plan has received a Notice of Sufficiency issued by PBGC pursuant to part 2617 of this chapter and has not been placed into trusteeship by PBGC. (See Note at beginning of part 4044.)

§ 4044.2 Definitions.

(a) The following terms are defined in § 4001.2 of this chapter: annuity, basic-type benefit, Code, distribution date, ERISA, fair market value, guaranteed benefit, insurer, IRS, irrevocable commitment, mandatory employee contributions, nonbasic-type benefit, nonforfeitable benefit, normal retirement age, notice of intent to terminate, PBGC, person, plan, plan administrator, single-employer plan, substantial owner, termination date, and voluntary employee contributions.

(b) For purposes of this part:

Deferred annuity means an annuity under which the specified date or age at which payments are to begin occurs after the valuation date.

Earliest retirement age at valuation date means the later of (a) a participant's age on his or her birthday near-

est to the valuation date, or (b) the earliest age at which the participant can retire under the terms of the plan.

Early retirement benefit means an annuity benefit payable under the terms of the plan, under which the participant is entitled to begin receiving payments before his or her normal retirement age and which is not payable on account of the disability of the participant. It may be reduced according to the terms of the plan.

Expected retirement age (XRA) means the age, determined in accordance with §§ 4044.55 through 4044.57, at which a participant is expected to begin receiving benefits when the participant has not elected, before the allocation date, an annuity starting date. This is the age to which a participant's benefit payment is assumed to be deferred for valuation purposes. An XRA is equal to or greater than the participant's earliest retirement age at valuation date but less than his or her normal retirement age.

Non-trusteed plan means a single-employer plan which receives a Notice of Sufficiency from PBGC and is able to close out by purchasing annuities in the private sector in accordance with part 2617 of this chapter. (See Note at beginning of part 4044.)

Notice of Sufficiency means a notice issued by the PBGC that it has determined that plan assets are sufficient to discharge when due all obligations of the plan with respect to benefits in priority categories 1 through 4 after plan assets have been allocated to benefits in accordance with section 4044 of ERISA and this subpart. (See Note at beginning of part 4044.)

Priority category means one of the categories contained in sections 4044 (a)(1) through (a)(6) of ERISA that establish the order in which plan assets are to be allocated.

Trusteed plan means a single-employer plan which has been placed into trusteeship by PBGC.

Unreduced retirement age (URA) means the earlier of the normal retirement age specified in the plan or the age at which an unreduced benefit is first payable.

Valuation date means (1) for non-trusteed plans, the date of distribution

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and (2) for trustee plans, the date of termination.

(c) For purposes of subpart B of this part (unless otherwise required by the context):

Age means the participant's age at his or her nearest birthday and is determined by rounding the individual's exact age to the nearest whole year. Half years are rounded to the next highest year. This is also known as the "insurance age."

(d) For purposes of §§ 4044.55 through 4044.57:

Monthly benefit means the guaranteed benefit payable by PBGC.

(e) For purposes of §§ 4044.71 through 4044.75:

Lump sum payable in lieu of an annuity means a benefit that is payable in a single installment and is derived from an annuity payable under the plan.

Other lump sum benefit means a benefit in priority category 5 or 6, determined under subpart A of this part, that is payable in a single installment (or substantially so) under the terms of the plan, and that is not derived from an annuity payable under the plan. The benefit may be a severance pay benefit, a death benefit or other single installment benefit.

Qualifying bid means a bid obtained from an insurer in accordance with § 2617.14(b) of this chapter. (See Note at beginning of part 4044.)

§ 4044.3 General rule.

(a) *Asset allocation.* Upon the termination of a single-employer plan, the plan administrator shall allocate the plan assets available to pay for benefits under the plan in the manner prescribed by this subpart. Plan assets available to pay for benefits include all plan assets (valued according to § 4044.41(b)) remaining after the subtraction of all liabilities, other than liabilities for future benefit payments, paid or payable from plan assets under the provisions of the plan. Liabilities include expenses, fees and other administrative costs, and benefit payments due before the allocation date. Except as provided in § 4044.4(b), an irrevocable commitment by an insurer to pay a benefit, which commitment is in effect on the date of the asset allocation, is not considered a plan asset, and a ben-

efit payable under such a commitment is excluded from the allocation process.

(b) *Allocation date.* For plans that close out pursuant to a Notice of Sufficiency under the provisions of subpart C of part 2617 of this chapter, assets shall be allocated as of the date plan assets are to be distributed. For other plans, assets shall be allocated as of the termination date. (See Note at beginning of part 4044.)

§ 4044.4 Violations.

(a) *General.* A plan administrator violates ERISA if plan assets are allocated or distributed upon plan termination in a manner other than that prescribed in section 4044 of ERISA and this subpart, except as may be required to prevent disqualification of the plan under the Code and regulations thereunder.

(b) *Distributions in anticipation of termination.* A distribution, transfer, or allocation of assets to a participant or to an insurance company for the benefit of a participant, made in anticipation of plan termination, is considered to be an allocation of plan assets upon termination, and is covered by paragraph (a) of this section. In determining whether a distribution, transfer, or allocation of assets has been made in anticipation of plan termination PBGC will consider all of the facts and circumstances including—

(1) Any change in funding or operation procedures;

(2) Past practice with regard to employee requests for forms of distribution;

(3) Whether the distribution is consistent with plan provisions; and

(4) Whether an annuity contract that provides for a cutback based on the guarantee limits in subpart B of part 4022 of this chapter could have been purchased from an insurance company.

ALLOCATION OF ASSETS TO BENEFIT CATEGORIES

§ 4044.10 Manner of allocation.

(a) *General.* The plan administrator shall allocate plan assets available to pay for benefits under the plan using the rules and procedures set forth in

paragraphs (b) through (f) of this section, or any other procedure that results in each participant (or beneficiary) receiving the same benefits he or she would receive if the procedures in paragraphs (b) through (f) were followed.

(b) *Assigning benefits.* The basic-type and nonbasic-type benefits payable with respect to each participant in a terminated plan shall be assigned to one or more priority categories in accordance with §§ 4044.11 through 4044.16. Benefits derived from voluntary employee contributions, which are assigned only to priority category 1, are treated, under section 204(c)(4) of ERISA and section 411(d)(5) of the Code, as benefits under a separate plan. The amount of a benefit payable with respect to each participant shall be determined as of the termination date.

(c) *Valuing benefits.* The value of a participant's benefit or benefits assigned to each priority category shall be determined, as of the allocation date, in accordance with the provisions of subpart B of this part. The value of each participant's basic-type benefit or benefits in a priority category shall be reduced by the value of the participant's benefit of the same type that is assigned to a higher priority category. Except as provided in the next two sentences, the same procedure shall be followed for nonbasic-type benefits. The value of a participant's nonbasic-type benefits in priority categories 3, 5, and 6 shall not be reduced by the value of the participant's nonbasic-type benefit assigned to priority category 2. Benefits in priority category 1 shall neither be included in nor subtracted from lower priority categories. In no event shall a benefit assigned to a priority category be valued at less than zero.

(d) *Allocating assets to priority categories.* Plan assets available to pay for benefits under the plan shall be allocated to each priority category in succession, beginning with priority category 1. If the plan has sufficient assets to pay for all benefits in a priority category, the remaining assets shall then be allocated to the next lower priority category. This process shall be repeated until all benefits in priority categories 1 through 6 have been pro-

vided or until all available plan assets have been allocated.

(e) *Allocating assets within priority categories.* Except for priority category 5, if the plan assets available for allocation to any priority category are insufficient to pay for all benefits in that priority category, those assets shall be distributed among the participants according to the ratio that the value of each participant's benefit or benefits in that priority category bears to the total value of all benefits in that priority category. If the plan assets available for allocation to priority category 5 are insufficient to pay for all benefits in that category, the assets shall be allocated, first, to the value of each participant's nonforfeitable benefits that would be assigned to priority category 5 under § 4044.15 after reduction for the value of benefits assigned to higher priority categories, based only on the provisions of the plan in effect at the beginning of the 5-year period immediately preceding the termination date. If assets available for allocation to priority category 5 are sufficient to fully satisfy the value of those benefits, assets shall then be allocated to the value of the benefit increase under the oldest amendment during the 5-year period immediately preceding the termination date, reduced by the value of benefits assigned to higher priority categories (including higher subcategories in priority category 5). This allocation procedure shall be repeated for each succeeding plan amendment within the 5-year period until all plan assets available for allocation have been exhausted. If an amendment decreased benefits, amounts previously allocated with respect to each participant in excess of the value of the reduced benefit shall be reduced accordingly. In the subcategory in which assets are exhausted, the assets shall be distributed among the participants according to the ratio that the value of each participant's benefit or benefits in that subcategory bears to the total value of all benefits in that subcategory.

(f) *Applying assets to basic-type or nonbasic-type benefits within priority categories.* The assets allocated to a participant's benefit or benefits within

each priority category shall first be applied to pay for the participant's basic-type benefit or benefits assigned to that priority category. Any assets allocated on behalf of that participant remaining after satisfying the participant's basic-type benefit or benefits in that priority category shall then be applied to pay for the participant's nonbasic-type benefit or benefits assigned to that priority category. If the assets allocable to a participant's basic-type benefit or benefits in all priority categories are insufficient to pay for all of the participant's guaranteed benefits, the assets allocated to that participant's benefit in priority category 4 shall be applied, first, to the guaranteed portion of the participant's benefit in priority category 4. The remaining assets allocated to that participant's benefit in priority category 4, if any, shall be applied to the non-guaranteed portion of the participant's benefit.

(g) *Allocation to established subclasses.* Notwithstanding paragraphs (e) and (f) of this section, the assets of a plan that has established subclasses within any priority category may be allocated to the plan's subclasses in accordance with the rules set forth in § 4044.17.

§ 4044.11 Priority category 1 benefits.

(a) *Definition.* The benefits in priority category 1 are participants' accrued benefits derived from voluntary employee contributions.

(b) *Assigning benefits.* Absent an election described in the next sentence, the benefit assigned to priority category 1 with respect to each participant is the balance of the separate account maintained for the participant's voluntary contributions. If a participant has elected to receive an annuity in lieu of his or her account balance, the benefit assigned to priority category 1 with respect to that participant is the present value of that annuity.

§ 4044.12 Priority category 2 benefits.

(a) *Definition.* The benefits in priority category 2 are participants' accrued benefits derived from mandatory employee contributions, whether to be paid as an annuity benefit with a pre-retirement death benefit that returns

mandatory employee contributions or, if a participant so elects under the terms of the plan and subpart A of part 4022 of this chapter, as a lump sum benefit. Benefits are primarily basic-type benefits although nonbasic-type benefits may also be included as follows:

(1) *Basic-type benefits.* The basic-type benefit in priority category 2 with respect to each participant is the sum of the values of the annuity benefit and the pre-retirement death benefit determined under the provisions of paragraph (c)(1) of this section.

(2) *Nonbasic-type benefits.* If a participant elects to receive a lump sum benefit and if the value of the lump sum benefit exceeds the value of the basic-type benefit in priority category 2 determined with respect to the participant, the excess is a nonbasic-type benefit. There is no nonbasic-type benefit in priority category 2 for a participant who does not elect to receive a lump sum benefit.

(b) *Conversion of mandatory employee contributions to an annuity benefit.* Subject to the limitation set forth in paragraph (b)(3) of this section, a participant's accumulated mandatory employee contributions shall be converted to an annuity form of benefit payable at the normal retirement age or, if the plan provides for early retirement, at the expected retirement age. The conversion shall be made using the interest rates and factors specified in paragraph (b)(2) of this section. The form of the annuity benefit (e.g., straight life annuity, joint and survivor annuity, cash refund annuity, etc.) is the form that the participant or beneficiary is entitled to on the termination date. If the participant does not have a non-forfeitable right to a benefit, other than the return of his or her mandatory contributions in a lump sum, the annuity form of benefit is the form the participant would be entitled to if the participant had a nonforfeitable right to an annuity benefit under the plan on the termination date.

(1) *Accumulated mandatory employee contributions.* Subject to any addition for the cost of ancillary benefits plus interest, as provided in the following

sentence, the amount of the accumulated mandatory employee contributions for each participant is the participant's total nonforfeitable mandatory employee contributions remaining in the plan on the termination date plus interest, if any, under the plan provisions. Mandatory employee contributions, if any, used after the effective date of the minimum vesting standards in section 203 of ERISA and section 411 of the Code for costs or to provide ancillary benefits such as life insurance or health insurance, plus interest under the plan provisions, shall be added to the contributions that remain in the plan to determine the accumulated mandatory employee contributions.

(2) *Interest rates and conversion factors.* The interest rates and conversion factors used in the administration of the plan shall be used to convert a participant's accumulated mandatory contributions to the annuity form of benefit. In the absence of plan rules and factors, the interest rates and conversion factors established by the IRS for allocation of accrued benefits between employer and employee contributions under the provisions of section 204(c) of ERISA and section 411(c) of the Code shall be used.

(3) *Minimum accrued benefit.* The annuity benefit derived from mandatory employee contributions may not be less than the minimum accrued benefit under the provisions of section 204(c) of ERISA and section 411(c) of the Code.

(c) *Assigning benefits.* If a participant or beneficiary elects to receive a lump sum benefit, his or her benefit shall be determined under paragraph (c)(2) of this section. Otherwise, the benefits with respect to a participant shall be determined under paragraph (c)(1) of this section.

(1) *Annuity benefit and pre-retirement death benefit.* The annuity benefit and the pre-retirement death benefit assigned to priority category 2 with respect to a participant are determined as follows:

(i) The annuity benefit is the benefit computed under paragraph (b) of this section.

(ii) Except for adjustments necessary to meet the minimum lump sum requirements as hereafter provided, the

pre-retirement death benefit is the benefit under the plan that returns all or a portion of the participant's mandatory employee contributions upon the death of the participant before retirement. A benefit that became payable in a single installment (or substantially so) because the participant died before the termination date is a liability of the plan within the meaning of § 4044.3(a) and should not be assigned to priority category 2. A benefit payable upon a participant's death that is included in the annuity form of the benefit derived from mandatory employee contributions (e.g., the survivor's portion of a joint and survivor annuity or the cash refund portion of a cash refund annuity) is assigned to priority category 2 as part of the annuity benefit under paragraph (c)(1)(i) of this section and is not assigned as a death benefit. The pre-retirement death benefit may not be less than the minimum lump sum required upon withdrawal of mandatory employee contributions by the IRS under section 204(c) of ERISA and section 411(c) of the Code.

(2) *Lump sum benefit.* Except for adjustments necessary to meet the minimum lump sum requirements as hereafter provided, if a participant elects to receive a lump sum benefit under the provisions of the plan, the amount of the benefit that is assigned to priority category 2 with respect to the participant is—

(i) The combined value of the annuity benefit and the pre-retirement death benefit determined according to paragraph (c)(1) (which constitutes the basic-type benefit) plus

(ii) The amount, if any, of the participant's accumulated mandatory employee contributions that exceeds the combined value of the annuity benefit and the pre-retirement death benefit (which constitutes the nonbasic-type benefit), but not more than

(iii) The amount of the participant's accumulated mandatory contributions.

(3) For purposes of paragraph (c)(2) of this section, accumulated mandatory contributions means the contributions with interest, if any, payable under plan provisions to the participant or beneficiary on termination of the plan or, in the absence of such provisions,

the amount that is payable if the participant withdrew his or her contributions on the termination date. The lump sum benefit may not be less than the minimum lump required by the IRS under section 204(c) of ERISA and section 411(c) of the Code upon withdrawal of mandatory employee contributions.

§ 4044.13 Priority category 3 benefits.

(a) *Definition.* The benefits in priority category 3 are those annuity benefits that were in pay status before the beginning of the 3-year period ending on the termination date, and those annuity benefits that could have been in pay status for participants who were eligible to receive annuity benefits before the beginning of the 3-year period ending on the termination date. Benefit increases that became effective before the beginning of the 5-year period ending on the termination date, including automatic benefit increases after that date to the extent provided in paragraph (b)(5) of this section, shall be included in determining the priority category 3 benefit. Benefits are primarily basic-type benefits, although nonbasic-type benefits will be included if any portion of a participant's priority category 3 benefit is not guaranteeable under the provisions of subpart A of part 4022 of this chapter and § 4022.21 of this chapter.

(b) *Assigning benefits.* The annuity benefit that is assigned to priority category 3 with respect to each participant is the lowest annuity that was paid or payable under the rules in paragraphs (b)(2) through (b)(6) of this section.

(1) *Eligibility of participants and beneficiaries.* A participant or beneficiary is eligible for a priority category 3 benefit if either of the following applies:

(i) The participant's (or beneficiary's) benefit was in pay status before the beginning of the 3-year period ending on the termination date.

(ii) The participant was eligible for an annuity and his or her benefit could have been in pay status before the beginning of the 3-year period ending on the termination date. Whether a participant was eligible to receive an annuity before the beginning of the 3-year period shall be determined using the plan provisions in effect on the day

before the beginning of the 3-year period.

(iii) If a participant described in either of the preceding two paragraphs died during the 3-year period ending on the date of the plan termination and his or her beneficiary is entitled to an annuity, the beneficiary is eligible for a priority category 3 benefit.

(2) *Plan provisions governing determination of benefit.* In determining the amount of the priority category 3 annuity with respect to a participant, the plan administrator shall use the participant's age, service, actual or expected retirement age, and other relevant facts as of the following dates:

(i) Except as provided in the next sentence, for a participant or beneficiary whose benefit was in pay status before the beginning of the 3-year period ending on the termination date, the priority category 3 benefit shall be determined according to plan provisions in effect on the date the benefit commenced. Benefit increases that became effective before the beginning of the 5-year period ending on the date of plan termination, including automatic benefit increases after that date to the extent provided in paragraph (b)(5) of this section, shall be included in determining the priority category 3 benefit. The form of annuity elected by a retiree is considered the normal form of annuity for that participant.

(ii) For a participant who was eligible to receive an annuity before the beginning of the 3-year period ending on the termination date but whose benefit was not in pay status, the priority category 3 benefit and the normal form of annuity shall be determined according to plan provisions in effect on the day before the beginning of the 3-year period ending on the termination date as if the benefit had commenced at that time.

(3) *General benefit limitations.* The general benefit limitation is determined as follows:

(i) If a participant's benefit was in pay status before the beginning of the 3-year period, the benefit assigned to priority category 3 with respect to that participant is limited to the lesser of the lowest annuity benefit in pay status during the 3-year period ending on the termination date and the lowest

annuity benefit payable under the plan provisions at any time during the 5-year period ending on the termination date.

(ii) Unless a benefit was in pay status before the beginning of the 3-year period ending on the termination date, the benefit assigned to priority category 3 with respect to a participant is limited to the lowest annuity benefit payable under the plan provisions, including any reduction for early retirement, at any time during the 5-year period ending on the termination date. If the annuity form of benefit under a formula that appears to produce the lowest benefit differs from the normal annuity form for the participant under paragraph (b)(2)(ii) of this section, the benefits shall be compared after the differing form is converted to the normal annuity form, using plan factors. In the absence of plan factors, the factors in subpart B of part 4022 of this chapter shall be used.

(iii) For purposes of this paragraph, if a terminating plan has been in effect less than five years on the termination date, computed in accordance with paragraph (b)(6) of this section, the lowest annuity benefit under the plan during the 5-year period ending on the termination date is zero. If the plan is a successor to a previously established defined benefit plan within the meaning of section 4021(a) of ERISA, the time it has been in effect will include the time the predecessor plan was in effect.

(4) *Determination of beneficiary's benefit.* If a beneficiary is eligible for a priority category 3 benefit because of the death of a participant during the 3-year period ending on the termination date, the benefit assigned to priority category 3 for the beneficiary shall be determined as if the participant had died the day before the 3-year period began.

(5) *Automatic benefit increases.* If plan provisions adopted and effective before the beginning of the 5-year period ending on the termination date provided for automatic increases in the benefit formula for both active participants and those in pay status or for participants in pay status only, the lowest annuity benefit payable during the 5-year period ending on the termination date determined under paragraph (b)(3) of

this section includes the automatic increases scheduled during the fourth and fifth years preceding termination, subject to the restriction that benefit increases for active participants in excess of the increases for retirees shall not be taken into account.

(6) *Computation of time periods.* For purposes of this section, a plan or amendment is "in effect" on the later of the date on which it is adopted or the date it becomes effective.

[61 FR 34059, July 1, 1996, as amended at 62 FR 67729, Dec. 30, 1997]

§ 4044.14 Priority category 4 benefits.

The benefits assigned to priority category 4 with respect to each participant are the participant's basic-type benefits that do not exceed the guarantee limits set forth in subpart B of part 4022 of this chapter, except as provided in the next sentence. The benefit assigned to priority category 4 with respect to a participant is not limited by the aggregate benefits limitations set forth in § 4022B.1 of this chapter for individuals who are participants in more than one plan or by the phase-in limitation applicable to substantial owners set forth in § 4022.26.

§ 4044.15 Priority category 5 benefits.

The benefits assigned to priority category 5 with respect to each participant are all of the participant's nonforfeitable benefits under the plan.

§ 4044.16 Priority category 6 benefits.

The benefits assigned to priority category 6 with respect to each participant are all of the participant's benefits under the plan, whether forfeitable or nonforfeitable.

§ 4044.17 Subclasses.

(a) *General rule.* A plan may establish one or more subclasses within any priority category, other than priority categories 1 and 2, which subclasses will govern the allocation of assets within that priority category. The subclasses may be based only on a participant's longer service, older age, or disability, or any combination thereof.

(b) *Limitation.* Except as provided in paragraph (c) of this section, whenever

the allocation within a priority category on the basis of the subclasses established by the plan increases or decreases the cumulative amount of assets that otherwise would be allocated to guaranteed benefits, the assets so shifted shall be reallocated to other participants' benefits within the priority category in accordance with the subclasses.

(c) *Exception for subclasses in effect on September 2, 1974.* A plan administrator may allocate assets to subclasses within any priority category, other than priority categories 1 and 2, without regard to the limitation in paragraph (b) of this section if, on September 2, 1974, the plan provided for allocation of plan assets upon termination of the plan based on a participant's longer service, older age, or disability, or any combination thereof, and—

(1) Such provisions are still in effect; or

(2) The plan, if subsequently amended to modify or remove those subclasses, is re-amended to re-establish the same subclasses on or before July 28, 1981.

(d) *Discrimination under Code.* Notwithstanding the provisions of paragraphs (a) through (c) of this section, allocation of assets to subclasses established under this section is permitted only to the extent that the allocation does not result in discrimination prohibited under the Code and regulations thereunder.

ALLOCATION OF RESIDUAL ASSETS

§ 4044.30 [Reserved]

Subpart B—Valuation of Benefits and Assets

GENERAL PROVISIONS

§ 4044.41 General valuation rules.

(a) *Valuation of benefits—(1) Trusteed plans.* The plan administrator of a plan that has been or will be placed into trusteeship by the PBGC shall value plan benefits in accordance with §§ 4044.51 through 4044.57.

(2) *Non-trusteed plans.* The plan administrator of a non-trusteed plan shall value plan benefits in accordance with §§ 4044.71 through 4044.75. If a plan with respect to which PBGC has issued

a Notice of Sufficiency is unable to satisfy all benefits assigned to priority categories 1 through 4 on the distribution date, the PBGC will place it into trusteeship and the plan administrator shall re-value the benefits in accordance with §§ 4044.51 through 4044.57. (See Note at beginning of part 4044.)

(b) *Valuation of assets.* Plan assets shall be valued at their fair market value, based on the method of valuation that most accurately reflects such fair market value.

TRUSTEED PLANS

§ 4044.51 Benefits to be valued.

(a) *Form of benefit.* The plan administrator shall determine the form of each benefit to be valued in accordance with the following rules:

(1) If a benefit is in pay status as of the valuation date, the plan administrator shall value the form of the benefit being paid.

(2) If a benefit is not in pay status as of the valuation date but a valid election with respect to the form of benefit has been made on or before the valuation date, the plan administrator shall value the form of benefit so elected.

(3) If a benefit is not in pay status as of the valuation date and no valid election with respect to the form of benefit has been made on or before the valuation date, the plan administrator shall value the form of benefit that, under the terms of the plan, is payable in the absence of a valid election.

(b) *Timing of benefit.* The plan administrator shall value benefits whose starting date is subject to election using the assumption specified in paragraph (b)(1) or (b)(2) of this section.

(1) *Where election made.* If a valid election of the starting date of a benefit has been made on or before the valuation date, the plan administrator shall assume that the starting date of the benefit is the starting date so elected.

(2) *Where no election made.* If no valid election of the starting date of a benefit has been made on or before the valuation date, the plan administrator shall assume that the starting date of the benefit is the later of—

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- (i) The expected retirement age, as determined under §§ 4044.55 through 4044.57, of the participant with respect to whom the benefit is payable, or
- (ii) The valuation date.

§ 4044.52 Valuation of benefits.

The plan administrator shall value all benefits as of the valuation date by—

- (a) Using the mortality assumptions prescribed by § 4044.53 and the interest assumptions prescribed in appendix B to this part;
- (b) Using interpolation methods, where necessary, at least as accurate as linear interpolation;
- (c) Using valuation formulas that accord with generally accepted actuarial principles and practices;
- (d) Taking mortality into account during the deferral period of a deferred joint and survivor benefit only with respect to the participant (or other principal annuitant); and
- (e) Adjusting the values to reflect loading expenses in accordance with appendix C to this part.

[65 FR 14753, Mar. 17, 2000]

§ 4044.53 Mortality assumptions.

(a) *General rule.* Subject to paragraph (b) of this section (regarding certain death benefits), the plan administrator shall use the mortality factors prescribed in paragraphs (c), (d), and (e) of this section to value benefits under § 4044.52.

(b) *Certain death benefits.* If an annuity for one person is in pay status on the valuation date, and if the payment of a death benefit after the valuation date to another person, who need not be identifiable on the valuation date, depends in whole or in part on the death of the pay status annuitant, then the plan administrator shall value the death benefit using—

- (1) The mortality rates that are applicable to the annuity in pay status under this section to represent the mortality of the pay status annuitant; and
- (2) The mortality rates applicable to annuities not in pay status and to deferred benefits other than annuities, under paragraph (c) of this section, to represent the mortality of the death beneficiary.

(c) *Mortality rates for healthy lives.* The mortality rates applicable to annuities in pay status on the valuation date that are not being received as disability benefits, to annuities not in pay status on the valuation date, and to deferred benefits other than annuities, are—

(1) For male participants, the rates in Table 1 of appendix A to this part, and

(2) For female participants, the rates in Table 1 of appendix A to this part, set back 6 years.

(d) *Mortality rates for disabled lives (other than Social Security disability).* The mortality rates applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which neither eligibility for, nor receipt of, Social Security disability benefits is a prerequisite, are—

(1) For male participants, the rates in Table 1 of appendix A to this part, set forward 3 years, and

(2) For female participants, the rates in Table 1 of appendix A to this part, set back 3 years.

(e) *Mortality rates for disabled lives (Social Security disability).* The mortality rates applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which either eligibility for, or receipt of, Social Security disability benefits is a prerequisite, are the rates in Tables 2-M and 2-F of appendix A to this part.

[61 FR 34059, July 1, 1996, as amended at 65 FR 14753, Mar. 17, 2000]

§ 4044.54 [Reserved]

EXPECTED RETIREMENT AGE

§ 4044.55 XRA when a participant must retire to receive a benefit.

(a) *Applicability.* Except as provided in § 4044.57, the plan administrator shall determine the XRA under this section when plan provisions or established plan practice require a participant to retire from his or her job to begin receiving an early retirement benefit.

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(b) *Data needed.* The plan administrator shall determine for each participant who is entitled to an early retirement benefit—

(1) The amount of the participant's monthly benefit payable at unreduced retirement age in the normal form payable under the terms of the plan or in the form validly elected by the participant before the termination date;

(2) The calendar year in which the participant reaches unreduced retirement age ("URA");

(3) The participant's URA; and

(4) The participant's earliest retirement age at the valuation date.

(c) *Procedure.* (1) The plan administrator shall determine whether a participant is in the high, medium or low retirement rate category using the applicable Selection of Retirement Rate Category Table in appendix D, based on the participant's benefit determined under paragraph (b)(1) of this section and the year in which the participant reaches URA.

(2) Based on the retirement rate category determined under paragraph (c)(1), the plan administrator shall determine the XRA from Table II-A, II-B or II-C, as appropriate, by using the participant's URA and earliest retirement age at valuation date.

§ 4044.56 XRA when a participant need not retire to receive a benefit.

(a) *Applicability.* Except as provided in § 4044.57, the plan administrator shall determine the XRA under this section when plan provisions or established plan practice do not require a participant to retire from his or her job to begin receiving his or her early retirement benefit.

(b) *Data needed.* The plan administrator shall determine for each participant—

(1) The participant's URA; and

(2) The participant's earliest retirement age at valuation date.

(c) *Procedure.* Participants in this case are always assigned to the high retirement rate category and therefore the plan administrator shall use Table II-C of appendix D to determine the XRA. The plan administrator shall determine the XRA from Table II-C by using the participant's URA and ear-

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liest retirement age at termination date.

§ 4044.57 Special rule for facility closing.

(a) *Applicability.* The plan administrator shall determine the XRA under this section, rather than § 4044.55 or § 4044.56, when both the conditions set forth in paragraphs (a)(1) and (a)(2) of this section exist.

(1) The facility at which the participant is or was employed permanently closed within one year before the valuation date, or is in the process of being permanently closed on the valuation date.

(2) The participant left employment at the facility less than one year before the valuation date or was still employed at the facility on the valuation date.

(b) *XRA.* The XRA is equal to the earliest retirement age at valuation date.

NON-TRUSTED PLANS

§ 4044.71 Valuation of annuity benefits.

The value of a benefit which is to be paid as an annuity is the cost of purchasing the annuity on the date of distribution from an insurer under the qualifying bid.

§ 4044.72 Form of annuity to be valued.

(a) When both the participant and beneficiary are alive on the date of distribution, the form of annuity to be valued is—

(1) For a participant or beneficiary already receiving a monthly benefit, that form which is being received, or

(2) For a participant or beneficiary not receiving a monthly benefit, the normal annuity form payable under the plan or the optional form for which the participant has made a valid election pursuant to § 2617.4(c) of this chapter. (See Note at beginning of part 4044.)

(b) When the participant dies after the date of plan termination but before the date of distribution, the form of annuity to be valued is determined under paragraph (b)(1) or (b)(2) of this section:

(1) For a participant who was entitled to a deferred annuity—

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(i) If the form was a single or joint life annuity, no benefit shall be valued; or

(ii) If the participant had made a valid election of a lump sum benefit before he or she died, the form to be valued is the lump sum.

(2) For a participant who was eligible for immediate retirement, and for a participant who was in pay status at the date of termination—

(i) If the form was a single life annuity, no benefit shall be valued;

(ii) If the form was an annuity for a period certain and life thereafter, the form to be valued is an annuity for the certain period;

(iii) If the form was a joint and survivor annuity, the form to be valued is a single life annuity payable to the beneficiary, unless the beneficiary has also died, in which case no benefit shall be valued;

(iv) If the form was an annuity for a period certain and joint and survivor thereafter, the form to be valued is an annuity for the certain period and the life of the beneficiary thereafter, unless the beneficiary has also died, in which case the form to be valued is an annuity for the certain period;

(v) If the form was a cash refund annuity, the form to be valued is the remaining lump sum death benefit; or

(vi) If the participant had elected a lump sum benefit before he or she died, the form to be valued is the lump sum.

(c) When the participant is still living and the named beneficiary or spouse dies after the date of termination but before the date of distribution, the form of annuity to be valued is determined under paragraph (c)(1) or (c)(2) of this section:

(1) For a participant entitled to a deferred annuity—

(i) If the form was a joint and survivor annuity, the form to be valued is a single life annuity payable to the participant; or

(ii) If the form was an annuity for a period certain and joint and survivor thereafter, the form to be valued is an annuity for the certain period and the life of the participant thereafter.

(2) For a participant eligible for immediate retirement and for a participant in pay status at the date of termination—

(i) If the form was a joint and survivor annuity, the form to be valued is a single life annuity payable to the participant; or

(ii) If the form was an annuity for a period certain and joint survivor thereafter annuity, the form to be valued is an annuity for the certain period and for the life of the participant thereafter.

§ 4044.73 Lump sums and other alternative forms of distribution in lieu of annuities.

(a) *Valuation.* (1) The value of the lump sum or other alternative form of distribution is the present value of the normal form of benefit provided by the plan payable at normal retirement age, determined as of the date of distribution using reasonable actuarial assumptions as to interest and mortality.

(2) If the participant dies before the date of distribution, but had elected a lump sum benefit, the present value shall be determined as if the participant were alive on the date of distribution.

(b) *Actuarial assumptions.* The plan administrator shall specify the actuarial assumptions used to determine the value calculated under paragraph (a) of this section when the plan administrator submits the benefit valuation data to the PBGC pursuant to § 2617.12 of part 2617 of this chapter. The same actuarial assumptions shall be used for all such calculations. The PBGC reserves the right to review the actuarial assumptions used and to revalue the benefits determined by the plan administrator if the actuarial assumptions are found to be unreasonable.

(See Note at beginning of part 4044.)

§ 4044.74 Withdrawal of employee contributions.

(a) If a participant has not started to receive monthly benefit payments on the date of distribution, the value of the lump sum which returns mandatory employee contributions is equal to the total amount of contributions made by the participant, plus interest that is payable to the participant under the terms of the plan, plus interest on that total amount from the date

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of termination to the date of distribution. The rate of interest credited on employee contributions up to the date of termination shall be the greater of the interest rate provided under the terms of the plan or the interest rate required under section 204(c) of ERISA or section 411(c) of the IRC.

(b) If a participant has started to receive monthly benefit payments on the date of distribution, part of which are attributable to his or her contributions, the value of the lump sum which returns employee contributions is equal to the excess of the amount described in paragraph (b)(1) of this section over the amount computed in paragraph (b)(2) of this section.

(1) The amount of accumulated mandatory employee contributions remaining in the plan as of the date of termination plus interest from the date of termination to the date of distribution.

(2) The excess of benefit payments made from the plan between date of plan termination and the date of distribution, over the amount of payments that would have been made if the employee contributions had been paid as a lump sum on the date of plan termination, with interest accumulated on the excess from the date of payment to the date of distribution.

(c) *Interest assumptions.* The interest rate used under this section to credit interest between the date of termination to the date of distribution shall be a reasonable rate and shall be the same for both paragraphs (a) and (b).

§ 4044.75 Other lump sum benefits.

The value of a lump sum benefit which is not covered under § 4044.73 or § 4044.74 is equal to—

(a) The value under the qualifying bid, if an insurer provides the benefit; or

(b) The present value of the benefit as of the date of distribution, determined using reasonable actuarial assumptions, if the benefit is to be distributed other than by the purchase of the benefit from an insurer. The PBGC reserves the right to review the actuarial assumptions as to reasonableness and re-value the benefit if the actuarial assumptions are unreasonable.

(See Note at beginning of part 4044.)

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APPENDIX A TO PART 4044—MORTALITY RATE TABLES

The tables in this appendix set forth for each age x the probability q_x that an individual aged x will not survive to attain age $x+1$.

TABLE 1—MORTALITY TABLE FOR HEALTHY MALE PARTICIPANTS

Age x	q_x
5	0.000342
6	0.000318
7	0.000302
8	0.000294
9	0.000292
10	0.000293
11	0.000298
12	0.000304
13	0.000310
14	0.000317
15	0.000325
16	0.000333
17	0.000343
18	0.000353
19	0.000365
20	0.000377
21	0.000392
22	0.000408
23	0.000424
24	0.000444
25	0.000464
26	0.000488
27	0.000513
28	0.000542
29	0.000572
30	0.000607
31	0.000645
32	0.000687
33	0.000734
34	0.000785
35	0.000860
36	0.000907
37	0.000966
38	0.001039
39	0.001128
40	0.001238
41	0.001370
42	0.001527
43	0.001715
44	0.001932
45	0.002183
46	0.002471
47	0.002790
48	0.003138
49	0.003513
50	0.003909
51	0.004324
52	0.004755
53	0.005200
54	0.005660
55	0.006131
56	0.006618
57	0.007139
58	0.007719
59	0.008364
60	0.009158
61	0.010064
62	0.011133
63	0.012391
64	0.013868
65	0.015592
66	0.017579

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TABLE 1—MORTALITY TABLE FOR HEALTHY
MALE PARTICIPANTS—Continued

Age x	q _x
67	0.019804
68	0.022229
69	0.024817
70	0.027530
71	0.030354
72	0.033370
73	0.036680
74	0.040388
75	0.044597
76	0.049388
77	0.054758
78	0.060678
79	0.067125
80	0.074070
81	0.081484
82	0.089320
83	0.097525
84	0.106047
85	0.114836
86	0.124170
87	0.133870
88	0.144073
89	0.154859
90	0.166307
91	0.178214
92	0.190460
93	0.203007
94	0.217904
95	0.234086
96	0.248436
97	0.263954
98	0.280803
99	0.299154
100	0.319185
101	0.341086
102	0.365052
103	0.393102
104	0.427255
105	0.469531
106	0.521945
107	0.586518
108	0.665268
109	0.760215
110	1.000000

TABLE 2—M—MORTALITY TABLE FOR DISABLED
MALE PARTICIPANTS RECEIVING SOCIAL SECURITY
DISABILITY BENEFIT PAYMENTS

Age x	q _x
5	0.000000
6	0.000000
7	0.000000
8	0.000000
9	0.000000
10	0.000000
11	0.000000
12	0.000000
13	0.000000
14	0.000000
15	0.000000
16	0.000000
17	0.000000
18	0.000000
19	0.000000
20	0.048300
21	0.048300
22	0.048300

TABLE 2—M—MORTALITY TABLE FOR DISABLED
MALE PARTICIPANTS RECEIVING SOCIAL SECURITY
DISABILITY BENEFIT PAYMENTS—Continued

Age x	q _x
23	0.048300
24	0.048300
25	0.048300
26	0.046100
27	0.043600
28	0.041100
29	0.038600
30	0.036200
31	0.033900
32	0.032000
33	0.030200
34	0.028800
35	0.027800
36	0.027200
37	0.027100
38	0.027300
39	0.027600
40	0.028200
41	0.028800
42	0.029700
43	0.030500
44	0.031400
45	0.032200
46	0.033000
47	0.034000
48	0.035300
49	0.036700
50	0.038300
51	0.040100
52	0.042000
53	0.043900
54	0.046000
55	0.048200
56	0.050600
57	0.053100
58	0.055500
59	0.058100
60	0.060300
61	0.062400
62	0.064300
63	0.065700
64	0.066800
65	0.069225
66	0.071813
67	0.074526
68	0.077350
69	0.080366
70	0.083676
71	0.087384
72	0.091593
73	0.096384
74	0.101754
75	0.107674
76	0.114121
77	0.121066
78	0.128480
79	0.136316
80	0.144521
81	0.153043
82	0.161832
83	0.171166
84	0.180866
85	0.191069
86	0.201855
87	0.213303
88	0.225210
89	0.237456
90	0.250003

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TABLE 2—M—MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	q _x
91	0.264900
92	0.281082
93	0.295432
94	0.310950
95	0.327799
96	0.346150
97	0.366181
98	0.388082
99	0.412048
100	0.440098
101	0.474251
102	0.516527
103	0.568941
104	0.633514
105	0.712264
106	0.807211
107	1.000000

TABLE 2—F—MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	q _x
5	0.000000
6	0.000000
7	0.000000
8	0.000000
9	0.000000
10	0.000000
11	0.000000
12	0.000000
13	0.000000
14	0.000000
15	0.000000
16	0.000000
17	0.000000
18	0.000000
19	0.000000
20	0.026300
21	0.026300
22	0.026300
23	0.026300
24	0.026300
25	0.026300
26	0.025700
27	0.025300
28	0.024700
29	0.024200
30	0.023700
31	0.023200
32	0.022700
33	0.022200
34	0.021800
35	0.021400
36	0.021200
37	0.021000
38	0.020800
39	0.020800
40	0.020900
41	0.021000
42	0.021300
43	0.021600
44	0.021900
45	0.022400
46	0.022900
47	0.023500

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TABLE 2—F—MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	q _x
48	0.024200
49	0.024900
50	0.025700
51	0.026400
52	0.027200
53	0.028100
54	0.028800
55	0.029500
56	0.030100
57	0.030700
58	0.031500
59	0.032300
60	0.033100
61	0.033900
62	0.034700
63	0.035500
64	0.036200
65	0.037269
66	0.038527
67	0.040004
68	0.041728
69	0.043715
70	0.045940
71	0.048365
72	0.050953
73	0.053666
74	0.056490
75	0.059506
76	0.062816
77	0.066524
78	0.070733
79	0.075524
80	0.080894
81	0.086814
82	0.093261
83	0.100206
84	0.107620
85	0.115456
86	0.123661
87	0.132183
88	0.140972
89	0.150306
90	0.160006
91	0.170209
92	0.180995
93	0.192443
94	0.204350
95	0.216596
96	0.229143
97	0.244040
98	0.260222
99	0.274572
100	0.290090
101	0.306939
102	0.325290
103	0.345321
104	0.367222
105	0.391188
106	0.419238
107	0.453391
108	0.495667
109	0.548081
110	0.612654
111	0.691404
112	0.786351
113	1.000000

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[61 FR 34059, July 1, 1996; 61 FR 36626, July 12, 1996, as amended at 65 FR 14753, Mar. 17, 2000]

APPENDIX B TO PART 4044—INTEREST RATES USED TO VALUE BENEFITS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, \dots , and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for $t \leq$	i_t	for $t \leq$	i_t	for $t \leq$
November 1993	.0560	1–25	.0525	>	N/A	N/A
December 1993	.0560	1–25	.0525	>25	N/A	N/A
January 1994	.0590	1–25	.0525	>25	N/A	N/A
February 1994	.0590	1–25	.0525	>25	N/A	N/A
March 1994	.0580	1–25	.0525	>25	N/A	N/A
April 1994	.0620	1–25	.0525	>25	N/A	N/A
May 1994	.0650	1–25	.0525	>25	N/A	N/A
June 1994	.0670	1–25	.0525	>25	N/A	N/A
July 1994	.0690	1–25	.0525	>25	N/A	N/A
August 1994	.0700	1–25	.0525	>25	N/A	N/A
September 1994	.0690	1–25	.0525	>25	N/A	N/A
October 1994	.0700	1–25	.0525	>25	N/A	N/A
November 1994	.0730	1–25	.0525	>25	N/A	N/A
December 1994	.0750	1–25	.0525	>25	N/A	N/A
January 1995	.0750	1–20	.0575	>20	N/A	N/A
February 1995	.0730	1–20	.0575	>20	N/A	N/A
March 1995	.0730	1–20	.0575	>20	N/A	N/A
April 1995	.0710	1–20	.0575	>20	N/A	N/A
May 1995	.0690	1–20	.0575	>20	N/A	N/A
June 1995	.0680	1–20	.0575	>20	N/A	N/A
July 1995	.0630	1–20	.0575	>20	N/A	N/A
August 1995	.0620	1–20	.0575	>20	N/A	N/A
September 1995	.0640	1–20	.0575	>20	N/A	N/A
October 1995	.0630	1–20	.0575	>20	N/A	N/A
November 1995	.0620	1–20	.0575	>20	N/A	N/A
December 1995	.0600	1–20	.0575	>20	N/A	N/A
January 1996	.0560	1–20	.0475	>20	N/A	N/A
February 1996	.0540	1–20	.0475	>20	N/A	N/A
March 1996	.0550	1–20	.0475	>20	N/A	N/A
April 1996	.0580	1–20	.0475	>20	N/A	N/A
May 1996	.0600	1–20	.0475	>20	N/A	N/A
June 1996	.0620	1–20	.0475	>20	N/A	N/A
July 1996	.0620	1–20	.0475	>20	N/A	N/A
August 1996	.0630	1–20	.0475	>20	N/A	N/A
September 1996	.0630	1–20	.0475	>20	N/A	N/A
October 1996	.0630	1–20	.0475	>20	N/A	N/A
November 1996	.0620	1–20	.0475	>20	N/A	N/A
December 1996	.0600	1–20	.0475	>20	N/A	N/A
January 1997	.0580	1–25	.0500	>25	N/A	N/A
February 1997	.0590	1–25	.0500	>25	N/A	N/A
March 1997	.0620	1–25	.0500	>25	N/A	N/A
April 1997	.0610	1–25	.0500	>25	N/A	N/A
May 1997	.0630	1–25	.0500	>25	N/A	N/A
June 1997	.0640	1–25	.0500	>25	N/A	N/A
July 1997	.0630	1–25	.0500	>25	N/A	N/A
August 1997	.0610	1–25	.0500	>25	N/A	N/A
September 1997	.0570	1–25	.0500	>25	N/A	N/A
October 1997	.0590	1–25	.0500	>25	N/A	N/A
November 1997	.0570	1–25	.0500	>25	N/A	N/A
December 1997	.0560	1–25	.0500	>25	N/A	N/A
January 1998	.0560	1–25	.0525	>25	N/A	N/A
February 1998	.0550	1–25	.0525	>25	N/A	N/A
March 1998	.0550	1–25	.0525	>25	N/A	N/A
April 1998	.0550	1–25	.0525	>25	N/A	N/A
May 1998	.0560	1–25	.0525	>25	N/A	N/A
June 1998	.0560	1–25	.0525	>25	N/A	N/A
July 1998	.0550	1–25	.0525	>25	N/A	N/A
August 1998	.0540	1–25	.0525	>25	N/A	N/A
September 1998	.0540	1–25	.0525	>25	N/A	N/A
October 1998	.0540	1–25	.0525	>25	N/A	N/A
November 1998	.0530	1–25	.0525	>25	N/A	N/A
December 1998	.0540	1–25	.0525	>25	N/A	N/A
January 1999	.0530	1–20	.0525	>20	N/A	N/A

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, \dots , and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for $t \leq$	i_t	for $t \leq$	i_t	for $t \leq$
February 1999 .....	.0540	1–20	.0525	>20	N/A	N/A
March 1999 .....	.0530	1–20	.0525	>20	N/A	N/A
April 1999 .....	.0560	1–20	.0525	>20	N/A	N/A
May 1999 .....	.0570	1–20	.0525	>20	N/A	N/A
June 1999 .....	.0570	1–20	.0525	>20	N/A	N/A
July 1999 .....	.0600	1–20	.0525	>20	N/A	N/A
August 1999 .....	.0630	1–20	.0525	>20	N/A	N/A
September 1999 .....	.0630	1–20	.0525	>20	N/A	N/A
October 1999 .....	.0630	1–20	.0525	>20	N/A	N/A
November 1999 .....	.0630	1–20	.0525	>20	N/A	N/A
December 1999 .....	.0650	1–20	.0525	>20	N/A	N/A
January 2000 .....	.0690	1–25	.0625	>25	N/A	N/A
February 2000 .....	.0710	1–25	.0625	>25	N/A	N/A
March 2000 .....	.0710	1–25	.0625	>25	N/A	N/A
April 2000 .....	.0710	1–25	.0625	>25	N/A	N/A
May 2000 .....	.0700	1–25	.0625	>25	N/A	N/A
June 2000 .....	.0710	1–25	.0625	>25	N/A	N/A
July 2000 .....	.0740	1–25	.0625	>25	N/A	N/A

[61 FR 34059, July 1, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting part 4044, appendix B, see the List of CFR Sections Affected in the Finding Aids section of this volume.

APPENDIX C TO PART 4044—LOADING ASSUMPTIONS

If the total value of the plan's benefit liabilities (as defined in 29 U.S.C. § 1301(a)(16)), exclusive of the loading charge, is—		The loading charge equals—
greater than	but less than or equal to	
\$0	\$200,000	5% of the total value of the plan's benefits, plus \$200 for each plan participant.
\$200,000 .....	.....	\$10,000, plus a percentage of the excess of the total value over \$200,000, plus \$200 for each plan participant; the percentage is equal to $1\% + [(P\% - 7.50\%) / 10]$, where P% is the initial rate, expressed as a percentage, set forth in appendix B of this part for the valuation of benefits.

[61 FR 34059, July 1, 1996, as amended at 65 FR 14753, Mar. 17, 2000]

APPENDIX D TO PART 4044—TABLES USED TO DETERMINE EXPECTED RETIREMENT AGE

TABLE I–00—SELECTION OF RETIREMENT RATE CATEGORY
(For Plans with valuation dates after December 31, 1999, and before January 1, 2001)

Participant reaches URA in year—	Participant's Retirement Rate Category is—			
	Low ¹ if monthly benefit at URA is less than—	Medium ² if monthly benefit at URA is		High ³ if monthly benefit at URA is greater than—
		From	To	
2001	430	430	1,814	1,814
2002	440	440	1,856	1,856
2003	450	450	1,899	1,899
2004	461	461	1,942	1,942
2005	471	471	1,987	1,987
2006	482	482	2,033	2,033
2007	493	493	2,080	2,080
2008	504	504	2,127	2,127
2009	516	516	2,176	2,176

TABLE I-00—SELECTION OF RETIREMENT RATE CATEGORY—Continued

(For Plans with valuation dates after December 31, 1999, and before January 1, 2001)

Participant reaches URA in year—	Participant's Retirement Rate Category is—			
	Low ¹ if monthly benefit at URA is less than—	Medium ² if monthly benefit at URA is		High ³ if monthly benefit at URA is greater than—
		From	To	
2010 or later	528	528	2,226	2,226

¹ Table II-A.² Table II-B.³ Table II-C.

TABLE II-A—EXPECTED RETIREMENT AGES FOR INDIVIDUALS IN THE LOW CATEGORY

Participant's earliest retirement age at valuation date.	Unreduced retirement age										
	60	61	62	63	64	65	66	67	68	69	70
42	53	53	53	54	54	54	54	54	54	54	54
43	53	54	54	54	55	55	55	55	55	55	55
44	54	54	55	55	55	55	55	56	56	56	56
45	54	55	55	56	56	56	56	56	56	56	56
46	55	55	56	56	56	57	57	57	57	57	57
47	56	56	56	57	57	57	57	57	57	57	57
48	56	57	57	57	58	58	58	58	58	58	58
49	56	57	58	58	58	58	59	59	59	59	59
50	57	57	58	58	59	59	59	59	59	59	59
51	57	58	58	59	59	60	60	60	60	60	60
52	58	58	59	59	60	60	60	60	60	60	60
53	58	59	59	60	60	61	61	61	61	61	61
54	58	59	60	60	61	61	61	61	61	61	61
55	59	59	60	61	61	61	62	62	62	62	62
56	59	60	60	61	61	62	62	62	62	62	62
57	59	60	61	61	62	62	62	62	62	62	62
58	59	60	61	61	62	62	63	63	63	63	63
59	59	60	61	62	62	63	63	63	63	63	63
60	60	60	61	62	62	63	63	63	63	63	63
61 .....	.....	61	61	62	63	63	63	63	64	64	64
62 .....	.....	.....	62	62	63	63	63	64	64	64	64
63 .....	.....	.....	.....	63	63	64	64	65	65	65	65
64 .....	.....	.....	.....	.....	64	64	65	65	65	65	65
65 .....	.....	.....	.....	.....	.....	65	65	65	65	65	65
66 .....	.....	.....	.....	.....	.....	.....	66	66	66	66	66
67 .....	.....	.....	.....	.....	.....	.....	.....	67	67	67	67
68 .....	.....	.....	.....	.....	.....	.....	.....	.....	68	68	68
69 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	69	69
70 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	70

TABLE II-B—EXPECTED RETIREMENT AGES FOR INDIVIDUALS IN THE MEDIUM CATEGORY

Participant's earliest retirement age at valuation date	Unreduced retirement age										
	60	61	62	63	64	65	66	67	68	69	70
42	49	49	49	49	49	49	49	49	49	49	49
43	50	50	50	50	50	50	50	50	50	50	50
44	50	51	51	51	51	51	51	51	51	51	51
45	51	51	52	52	52	52	52	52	52	52	52
46	52	52	52	53	53	53	53	53	53	53	53
47	53	53	53	53	53	54	54	54	54	54	54
48	54	54	54	54	54	54	54	54	54	54	54
49	54	55	55	55	55	55	55	55	55	55	55
50	55	55	56	56	56	56	56	56	56	56	56
51	56	56	56	57	57	57	57	57	57	57	57
52	56	57	57	57	57	58	58	58	58	58	58
53	57	57	58	58	58	58	58	58	58	58	58
54	57	58	58	59	59	59	59	59	59	59	59
55	58	58	59	59	59	60	60	60	60	60	60
56	58	59	59	60	60	60	60	60	60	60	60
57	59	59	60	60	61	61	61	61	61	61	61
58	59	60	60	61	61	61	61	61	61	61	61
59	59	60	61	61	62	62	62	62	62	62	62
60	60	60	61	62	62	62	62	62	62	62	62

TABLE II—B—EXPECTED RETIREMENT AGES FOR INDIVIDUALS IN THE MEDIUM CATEGORY—Continued

Participant's earliest retirement age at valuation date	Unreduced retirement age										
	60	61	62	63	64	65	66	67	68	69	70
61	61	61	62	62	63	63	63	63	63	63
62	62	62	62	63	63	63	63	63	63
63	63	63	64	64	64	64	64	64
64	64	64	64	64	64	64	64
65	65	65	65	65	65	65
66	66	66	66	66	66
67	67	67	67	67
68	68	68	68
69	69	69
70	70

TABLE II—C—EXPECTED RETIREMENT AGES FOR INDIVIDUALS IN THE HIGH CATEGORY

Participant's earliest retirement age at valuation date.	Unreduced retirement age										
	60	61	62	63	64	65	66	67	68	69	70
42	46	46	46	46	46	47	47	47	47	47	47
43	47	47	47	47	47	47	47	47	47	47	47
44	48	48	48	48	48	48	48	48	48	48	48
45	49	49	49	49	49	49	49	49	49	49	49
46	50	50	50	50	50	50	50	50	50	50	50
47	51	51	51	51	51	51	51	51	51	51	51
48	52	52	52	52	52	52	52	52	52	52	52
49	53	53	53	53	53	53	53	53	53	53	53
50	54	54	54	54	54	54	54	54	54	54	54
51	54	55	55	55	55	55	55	55	55	55	55
52	55	55	56	56	56	56	56	56	56	56	56
53	56	56	56	57	57	57	57	57	57	57	57
54	57	57	57	57	57	58	58	58	58	58	58
55	57	58	58	58	58	58	58	58	58	58	58
56	58	58	59	59	59	59	59	59	59	59	59
57	58	59	59	60	60	60	60	60	60	60	60
58	59	59	60	60	60	60	61	61	61	61	61
59	59	60	60	61	61	61	61	61	61	61	61
60	60	60	61	61	61	62	62	62	62	62	62
61 .....	.....	61	61	62	62	62	62	62	62	62	62
62 .....	.....	.....	62	62	62	62	62	62	62	62	62
63 .....	.....	.....	.....	63	63	63	64	64	64	64	64
64 .....	.....	.....	.....	.....	64	64	64	64	64	64	64
65 .....	.....	.....	.....	.....	.....	65	65	65	65	65	65
66 .....	.....	.....	.....	.....	.....	.....	66	66	66	66	66
67 .....	.....	.....	.....	.....	.....	.....	.....	67	67	67	67
68 .....	.....	.....	.....	.....	.....	.....	.....	.....	68	68	68
69 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	69	69
70 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	70

[61 FR 34059, July 1, 1996; 61 FR 36626, July 12, 1996, as amended at 61 FR 65476, Dec. 13, 1996; 62 FR 65611, Dec. 15, 1997; 63 FR 63180, Nov. 12, 1998; 64 FR 67165, Dec. 1, 1999]

PART 4047—RESTORATION OF TERMINATING AND TERMINATED PLANS

Sec.

4047.1 Purpose and scope.

4047.2 Definitions.

4047.3 Funding of restored plan.

4047.4 Payment of premiums.

4047.5 Repayment of PBGC payments of guaranteed benefits.

AUTHORITY: 29 U.S.C. 1302(b)(3), 1347.

SOURCE: 61 FR 34073, July 1, 1996, unless otherwise noted.

§ 4047.1 Purpose and scope.

Section 4047 of ERISA gives the PBGC broad authority to take any necessary actions in furtherance of a plan restoration order issued pursuant to section 4047. This part (along with Treasury regulation 26 CFR 1.412(c)(1)–3) describes certain legal obligations that arise incidental to a plan restoration under section 4047. This part also